

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6293

IN THE MATTER OF:

Served July 19, 2001

Revocation of Certificate of )  
Insurance and Investigation of )  
Suspension and Revocation of )  
Certificate of Authority )  
Directed to L&N TRANSPORTATION )  
COMPANY, INC., WMATC No. 254 )

Case No. MP-2001-49

This proceeding was initiated on June 12, 2001, in Order No. 6249, for the purpose of revoking the certificate of insurance on file for L&N Transportation Company, Inc. (L&N), after the issuer of the certificate, an agent for the insurance company, repudiated the certificate it had issued for another carrier. The order gave L&N thirty days to file a new certificate of insurance signed by the insurance company.

By June 25, the Commission had received from L&N's insurance company two certificates of insurance and two lists of vehicles showing that the insurance company has issued a \$1.5 million policy to cover L&N's vans and a \$5 million policy to cover L&N's minibus. Commission Regulation No. 58-03, however, provides that WMATC carriers with operating authority unrestricted as to vehicle seating capacity, such as L&N, must insure all of their revenue vehicles for \$5 million -- even their vans.

L&N's sole shareholder and officer is Shirley L. Nelson. L&N obtained Certificate of Authority No. 254 from Ms. Nelson in January of 1999, along with her vans and minibus, after receiving Commission approval the previous month.<sup>1</sup> Prior to the transfer, the Commission had discovered that Ms. Nelson was insuring her vans for \$1.5 million and her minibus for \$5 million and directed her to show cause why she should not be ordered to terminate the \$1.5 million van policy and transfer the vans to her \$5 million minibus policy.<sup>2</sup> Ms. Nelson responded by canceling the \$5 million minibus policy, increasing the van policy limit to \$5 million, and transferring the minibus to that policy.<sup>3</sup>

Ms. Nelson thereafter requested a waiver of the Commission's \$5 million insurance requirement as to her vans so that she might once again insure them for only \$1.5 million. The Commission denied that

<sup>1</sup> In re Shirley L. Nelson, t/a L&N Transportation & L&N Transportation Company, Inc., No. AP-98-46, Order No. 5485 (Dec. 15, 1998).

<sup>2</sup> In re Shirley L. Nelson, t/a L&N Transp., No. MP-96-16, Order No. 4770 (Feb. 26, 1996).

<sup>3</sup> In re Shirley L. Nelson, t/a L&N Transp., No. MP-96-16, Order No. 4834 at 2 (May 9, 1996).



request on the ground that the Commission had permitted unrestricted carriers to insure their vans for only \$1.5 million in the past but "found that practice both unsound and administratively unmanageable" and on the ground that granting a waiver to Ms. Nelson alone would be "patently unfair" to the rest of the industry.<sup>4</sup>

Given Ms. Nelson's specific waiver request and the Commission's specific denial, there can be no doubt Ms. Nelson was aware that an unrestricted WMATC carrier may not insure its vans for only \$1.5 million. Her knowledge is imputed to L&N.<sup>5</sup>

Ms. Nelson and L&N shall have thirty days to cancel the \$1.5 million policy, transfer the vans to the \$5 million policy and show cause why the Commission should not assess a civil forfeiture for knowingly and willfully violating the Compact, the Commission's insurance regulations and the Order denying Ms. Nelson's request for waiver of those regulations.

THEREFORE, IT IS ORDERED:

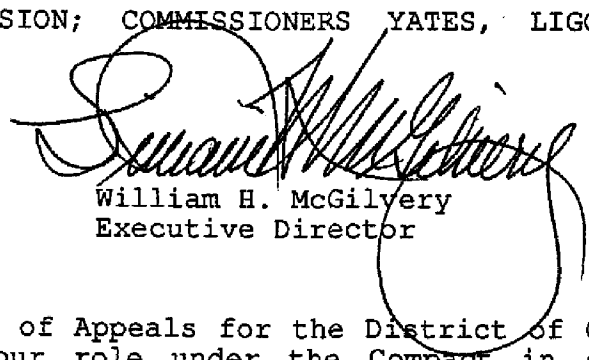
1. That within 30 days from the date of this order Shirley L. Nelson and L&N Transportation Company, Inc., shall:

- a. cancel policy no. CK03800765 and provide proof that all of L&N's vehicles are covered by a single policy for \$5 million as required by Commission Regulation No. 58; and
- b. show cause why the Commission should not assess a civil forfeiture against Ms. Nelson and L&N for knowingly and willfully violating the Compact, the Commission's insurance regulations and the Order denying Ms. Nelson's request for waiver of those regulations.

2. That Certificate of Authority No. 254 shall stand suspended upon respondents' failure to timely comply with the requirements of this order.

3. That respondents may file within 15 days from the date of this order a request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER:



William H. McGilvery  
Executive Director

---

<sup>4</sup> Id. at 2. The U.S. Court of Appeals for the District of Columbia Circuit has reminded us of our role under the Compact in guarding against unfair competition. Old Town Trolley Tours of Washington, Inc., v. WMATC, 129 F.3d 201 (D.C. Cir. 1997).

<sup>5</sup> In re Affordable Airport Charter, Inc., & Bach Vu, t/a Affordable Airport Charter, No. MP-97-76, Order No. 5276 (Feb. 17, 1998).